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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/714,051	11/15/2000	Stepan B. Sokolov	5181-60300	4377

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Robert C Kowert
Conley Rose & Tayon P C
P O Box 398
Austin, TX 78767-0398

EXAMINER

GROSS, KENNETH A

ART UNIT	PAPER NUMBER
2122	8

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/714,051

Applicant(s)

SOKOLOV, STEPAN B.

Examiner

Kenneth A Gross

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the Request for Reconsideration filed on April 12th, 2004.
2. Claims 11-54 remain rejected under 35 U.S.C. 103(a).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 11, 13-19, 21, 23-28, 30-38, 40-46, and 48-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang (U.S. Patent Number 6,292,936) in view of "The IR to VMx86 Translation Module Specification" by Chris Lattner, December 1999 (hereinafter Lattner).

In regard to Claims 11, 13-19, 21, 23-28, 30-38, 40-46, for specific rejections of these Claims, see the action mailed on January 13th, 2004.

5. Claim 12, 29, 39, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang (U.S. Patent Number 6,292,936) in view of "The IR to VMx86 Translation Module Specification" by Chris Lattner, December 1999 (hereinafter Lattner), and further in view of "The Principles of Computer Hardware, Third Edition" by Alan Clements, 2000 (hereinafter Clements).

In regard to Claims 12, 29, 39, and 47, for specific rejections of these Claims, see the action mailed on January 13th, 2004.

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6. Claims 20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang (U.S. Patent Number 6,292,936) in view of "The IR to VMx86 Translation Module Specification" by Chris Lattner, December 1999 (hereinafter Lattner) and further in view of "Load-time Structural Reflection in Java" by Shigeru Chiba, June 2000 (hereinafter Chiba).

In regard to Claims 20 and 22, for specific rejections of these Claims, see the action mailed on January 13th, 2004.

Response to Arguments

7. Applicant's arguments filed on April 12th, 2004 have been fully considered but they are not persuasive.

Specifically, the applicant states that Wang fails to teach "generating a platform-independent representation of the one or more script language instructions" (Column 2, Paragraph 7), and merely teaches replacing them with uniform synchronization calls or tokens (Page 3, Paragraph 3). However, the notify and wait method invocations as taught by Wang are equivalent representations of the script language instructions. Furthermore, it is necessary when translating instructions to replace the instructions with instructions of another form, hence replacing is equivalent to translating in this case.

Furthermore, the applicant states that the examiner's assertion that "the interpreter inherently converts the script into an equivalent intermediate form" is incorrect, since Wang describes "a system wherein the embedded script itself remains in the original script language" (Page 4, Paragraph 1). The examiner disagrees. Wang clearly discloses converting instructions into an equivalent form, and hence the instructions are not left unchanged (Column 1, lines 19-

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21). Furthermore, the example following this remark is just that, one example of the preceding statement ("For example", Column 1, line 22), and therefore does not invalidate the preceding statement.

The applicant further states that the examiner is improperly attempting to rely on both the single interpreter based system and the multiple interpreter system cited by Wang (Page 4, Paragraph 2). However, the examiner still holds that it is inherent to convert a script into an equivalent intermediate form, and pointed to Column 1, lines 19-21 as support for this. Since this aspect is inherent, and well known, it can be used as prior art. Furthermore, converting a script into multiple intermediate sources does not negate the prior art teaching of converting a script into an equivalent form. The multiple intermediate sources of Wang is still an equivalent intermediate form.

The applicant further argues that "just because Lattner teaches the use of a Java-based Instruction class to represent 80x86 assembly instructions, does not suggest use of a Java-based Instruction class to represent script instructions" (Page 5, Paragraph 1). However, since Lattner teaches the use of a Java-based Instruction class to represent 80x86 assembly instructions, this Instruction class can obviously be generalized to all types of instructions, including script instructions. Lattner teaches the benefits of representing an Instruction as an object, and thus it would be beneficial to represent a script instruction as an object.

With regard to Page 5, Paragraph 4, the applicant argues that Wang fails to teach an intermediate platform independent representation and Lattner does not teach representing script instructions as platform-independent programming objects, the examiner directs the applicant's attention to the arguments above with regard to these matters.

The applicant argues with regard to Claim 12 that Clements does not teach using a stack structure to hold instructions, only storing data on a stack (Page 6, Paragraphs 3 and 4).

However, Clements does teach in Section 6.5.2 the use of a program stack and program counter, which stores instructions on a stack. On Page 7 of 24, Clements teaches “the value of the PC is pushed on the stack during a subroutine call is usually the return address (i.e. the address of the next instruction following the subroutine call). Note that addresses of instructions are equivalent to the instructions themselves.

In regard to the arguments to the official notice taken on Claims 21 and 23, If Applicant does not seasonably traverse the well-known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). A seasonable challenge constitutes a demand for evidence made as soon as practicable during prosecution. Thus, Applicant is charged with rebutting the well-known statement in the next reply after the Office action in which the well-known statement was made. This is necessary because the Examiner must be given the opportunity to provide evidence in the next Office action or explain why no evidence is required. If the Examiner adds a reference to the rejection in the next action after applicant's rebuttal, the newly cited reference, if it is added merely as evidence of the prior well known statement, does not result in a new issue and thus the action can potentially be made final.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth A Gross whose telephone number is (703) 305-0542. The examiner can normally be reached on Mon-Fri 7:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q Dam can be reached on (703) 305-4552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KAG



TUAN DAM
SUPERVISORY PATENT EXAMINER